IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1131 OF 2005
IN
SUIT NO.1408 OF 1999

Development Credit Bank Ltd. ...Plaintiffs

Versus

AVS Industries Ltd. & Anr. ...Defendants

Ms. Shalini Rajdutt, Advocate, i/b. Jurisconsultuj, for the Plaintiffs.

Mr. Jaikumar N. Shiradhonkar, Advocate, for Defendants.

CORAM : S.J. VAZIFDAR, J.
DATED : 22ND AUGUST, 2006

P.C. :

Notice of Motion is taken out seeking sanction of the sale of the leased equipment described in Exhibit "A" to the plaint.

2. It is not disputed that the Court Receiver was appointed in respect of the leased equipment. By an order dated 20th February, 2003 in Notice of Motion No.1431/2001, F.I. Rebello, J., permitted the equipment to be sold by private treaty subject to the sanction of the Court.

3. The Plaintiffs sold the said equipment for the sum of Rs.46,000/- in January, 2005 without seeking the sanction of the Court. The Plaintiffs informed the Court Receiver by a letter dated 17th January, 2005 of the intended sale.

4. The sale was contrary to the order of this Court. The leased equipment was worth over Rs.1 crore. In 1999 the Defendants had offerred royalty, if appointed as the agent of the Court Receiver, of Rs.49,500/- per quarter.

5. In these circumstances, it is not possible to sanction the sale with retrospective effect.

6. The Notice of Motion is accordingly dismissed.